IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.624 OF 2006

Shri Nitin Shrikrishna
Rathi and Anr. .. Petitioners.
Vs.
State of Maharashtra .. Respondents.

Mr.V.V.Purwant for the petitioners.
Mrs.S.D.Shinde A.P.P. for the State.

CORAM : D.B.BHOSALE, J.
DATED : 19TH JUNE, 2006

P.C.:

. Heard learned counsel for the parties.

2. By this petition, the petitionrs have challenged the concurrent findings recorded by the courts below rejecting the application filed by the petitioners under section 227 of the Code of Criminal Procedure seeking discharge insofar as the charge under section 307 of I.P.C. is concerned. The learned counsel for the petitioners submits that there is no material on record to constitute an appeal under section 307 I.P.C. In support thereof he took me through a copy of the FIR. I perused both the impugned judgments with the assistance of the learned counsel for the parties. I agree with the findings recorded by the courts below. A perusal of the FIR, in my opinion, prima facie makes out a case under section 307 of I.P.C. The concurrent findings recorded by the courts below cannot be termed as perverse. The opinion expressed, at this stage, is only prima facie opinion. Moreover,

the provisions of section 216 of the Code of Criminal Procedure provide power to the court to alter the charge at any time before pronouncement of the judgment. Keeping that in view and considering the concurrent findings recorded by the courts below on appreciation of the material placed before it I am not inclined to interfere with the impugned order in writ jurisdiction of this Court. The trial Court shall decide the trial based on the evidence that may be adduced before it and uninfluenced by the prima facie opinion expressed in the impugned orders. With these observations the writ petition is disposed of.

(D.B.Bhosale, J.)